

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven Weinstein et al.

Serial No.: 10/625,752

Filed: July 23, 2003

For: COMBINING TELEVISION BROADCAST AND
PERSONALIZED/INTERACTIVE INFORMATION

Group Art Unit: 2423

Examiner: Stokely-Collins, J.

Confirmation No.: 8134

Attorney Docket No.: 007412.00212

APPEAL BRIEF

U.S. Patent and Trademark Office
Customer Service Window
Mail Stop - Appeal
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This is an Appeal Brief filed in support of Appellants' June 10, 2010, Notice of Appeal. Appeal is taken from the non-final Office Action mailed March 22, 2010.

General Authorization of Payment of Fees

If any fees are due, or if any overpayments have been made, whether or not associated with this filing, please debit or credit Deposit Account No. 19-0733, accordingly. Any necessary extensions of time are hereby requested.

REAL PARTY IN INTEREST

37 C.F.R. § 41.37(c)(1)(i)

The owner of this application, and the real party in interest, is TVWorks, LLC, of Philadelphia, Pennsylvania.

RELATED APPEALS AND INTERFERENCES

37 C.F.R. § 41.37(c)(1)(ii)

There are no known related appeals or interferences.

STATUS OF CLAIMS

37 C.F.R. § 41.37(c)(1)(iii)

Claims 1, 2, 7, 8, 10, 11, 13-16, 18-21, and 23-38 are pending and rejected. Claims 3-6, 9, 12, 17, and 22 were previously cancelled without prejudice or disclaimer. Appellant hereby appeals the rejection of the pending claims.

STATUS OF AMENDMENTS

37 C.F.R. § 41.37(c)(1)(iv)

There are no outstanding amendments, as the status of the claims provided herein is indicative of the claims on appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

37 C.F.R. § 41.37(c)(1)(v)

In making reference herein to various embodiments in the specification text and/or drawings to explain the claimed invention, Appellant does not intend to limit the claims to those embodiments; all references to the specification and drawings are illustrative unless otherwise explicitly stated. Appellant refers to the filed specification at the cited passages for support with the understanding that the specification, when taken as a whole, also provides support.

Independent claim 1 is directed to an information system comprising a controller configured to generate an image representative signal adapted for use by a display device. Specification, p.9, lines 8-16; p.23, line 20 – p.24, line 3; p.24, lines 16-20; Figure 1 (display element 120, display control 140); Figure 3 (step 317). The system further comprises a television interface configured to provide television information received from a television signal to the controller. Specification, p.9, lines 18-20; Figure 1 (TV/IF tuner 150, display control 140). The system further comprises an interactive information interface configured to retrieve interactive information from the web and to provide the interactive information to said controller. Specification, p.10, lines 1-3; Figure 1 (interactive information interface 160, display control

140). The system further comprises a remote control comprising a plurality of buttons arranged to move a cursor, the remote control further configured to receive user input and to provide the received user input to said controller. Specification, p.11, lines 4-9; p.18, lines 12-15; p.24, lines 11-20; Figure 1 (input element 130, display control 140); Figure 3 (steps 312, 319). The system further comprises a data memory configured to store user preferences. Specification, p.11, lines 11-13. The controller is configured to obtain said interactive information in response to said user input received from the remote control and television information in response to said user input, said controller being further configured to generate said image representative signal such that corresponding presented imagery includes an interactive portion containing said interactive information and a television portion containing said television information, wherein said interactive and said television portions are formatted according to said user preferences. Specification, p.3, lines 8-12; p.7, lines 9-16; p.11, lines 4-13; p.13, lines 3-16; p.14, lines 14-17; p.15, lines 1-12; p.16, line 19 – p.18, line 5; p.19, line 19 – p.25, line 7; Figure 2A (first region 211, second region 212); Figure 2B (first region 221, second region 222); Figure 2C (first region 231, second region 232); Figure 2D (first region 241, second region 242); Figure 3 (steps 312-319). The interactive portion is presented as an elongated horizontal portion encompassing less than half of a television screen at an edge of said television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the television screen. Specification, p.13, line 3 – p.14, line 10; Figure 2A (first (television) portion/region 211, second (interactive) portion/region 212).

Independent claim 16 is directed to a method comprising initializing a display system. Specification, p.18, line 17 – p.19, line 17; Figure 3 (steps 310, 311). The method further comprises receiving selected web content received in response to user input from a remote control device. Specification, p.11, lines 4-9; p.18, lines 12-15; p.23, lines 2-10; p.24, lines 11-14; Figure 1 (input element 130); Figure 3 (steps 312, 313, 316, 319). The method further comprises receiving television content. Specification, p.22, lines 18-22; Figure 3 (step 315). The method further comprises receiving user preferences. Specification, p.11, lines 4-13; p.19, lines 13-17; p.23, lines 2-10; p.24, lines 16-20; Figure 3 (step 319). The method further comprises formatting the received web content and the received television content into video

information according to said user preferences. Specification, p.3, lines 14-18; p.7, lines 9-16; p.10, lines 9-14; p.12, line 16 – p.18, line 5; p.24, lines 11-20; Figures 2A-2D; Figure 3 (step 319). The method further comprises transmitting to a display the video information to simultaneously produce interactive information including the received selected web content in an interactive portion of the display and television content in a television portion of the display. Specification, p.7, lines 9-16; p.9, lines 8-9; p.12, line 16 – p.18, line 5; Figure 1 (display element 120, display controller 140); Figures 2A-2D; Figure 3 (steps 312-319). The interactive portion is presented as an elongated horizontal portion encompassing less than half of the display at an edge of the television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the display. Specification, p.13, line 3 – p.14, line 10; Figure 2A (first (television) portion/region 211, second (interactive) portion/region 212).

Independent claim 25 is directed to an information system comprising a controller configured to generate an image representative signal adapted for use by a display device. Specification, p.9, lines 8-16; p.23, line 20 – p.24, line 3; p.24, lines 16-20; Figure 1 (display element 120, display control 140); Figure 3 (step 317). The system further comprises a television interface configured to provide television information received from a television signal to the controller. Specification, p.9, lines 18-20; Figure 1 (TV/IF tuner 150, display control 140). The system further comprises an interactive information interface configured to retrieve interactive information from the web and to provide the interactive information to said controller. Specification, p.10, lines 1-3; Figure 1 (interactive information interface 160, display control 140). The system further comprises a remote control input device comprising a plurality of buttons configured to receive user input and to provide the received user input to said controller. Specification, p.11, lines 4-9; p.18, lines 12-15; p.24, lines 11-20; Figure 1 (input element 130, display control 140); Figure 3 (steps 312, 319). The system further comprises a data memory configured to store user preferences. Specification, p.11, lines 11-13. The controller is configured to obtain said interactive information in response to said user input received from the remote control input device and television information in response to said user input, said controller being further configured to generate said image representative signal such that

corresponding presented imagery includes an interactive portion containing said interactive information and a television portion containing said television information, wherein said interactive and said television portions are formatted according to said user preferences. Specification, p.3, lines 8-12; p.7, lines 9-16; p.11, lines 4-13; p.13, lines 3-16; p.14, lines 14-17; p.15, lines 1-12; p.16, line 19 – p.18, line 5; p.19, line 19 – p.25, line 7; Figure 2A (first region 211, second region 212); Figure 2B (first region 221, second region 222); Figure 2C (first region 231, second region 232); Figure 2D (first region 241, second region 242); Figure 3 (steps 312-319). The interactive information is presented in a translucent overlay region over the television portion, wherein the translucent overlay region does not substantially obscure the television portion. Specification, p.14, line 14 – p.16, line 15; Figure 2B (first (television) portion/region 221, second (interactive) portion/region 222).

Independent claim 28 is directed to a method comprising initializing a display system. Specification, p.18, line 17 – p.19, line 17; Figure 3 (steps 310, 311). The method further comprises receiving selected web content. Specification, p.11, lines 4-9; p.18, lines 12-15; p.23, lines 2-10; p.24, lines 11-14; Figure 1 (input element 130); Figure 3 (steps 312, 313, 316, 319). The method further comprises receiving broadcast content. Specification, p.22, lines 18-22; Figure 3 (step 315). The method further comprises receiving user preferences. Specification, p.11, lines 4-13; p.19, lines 13-17; p.23, lines 2-10; p.24, lines 16-20; Figure 3 (step 319). The method further comprises formatting the received web content and the received broadcast content into video information according to said user preferences. Specification, p.3, lines 14-18; p.7, lines 9-16; p.10, lines 9-14; p.12, line 16 – p.18, line 5; p.24, lines 11-20; Figures 2A-2D; Figure 3 (step 319). The method further comprises transmitting to a display the video information to simultaneously produce interactive information including portions of the received selected web content in an interactive portion of the display and a television broadcast in a broadcast portion of the display. Specification, p.7, lines 9-16; p.9, lines 8-9; p.12, line 16 – p.18, line 5; Figure 1 (display element 120, display controller 140); Figures 2A-2D; Figure 3 (steps 312-319). The interactive information is presented in a translucent overlay region over the broadcast portion, wherein the translucent overlay region does not substantially obscure the

broadcast region. Specification, p.14, line 14 – p.16, line 15; Figure 2B (first (television) portion/region 221, second (interactive) portion/region 222).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

37 C.F.R. § 41.37(c)(1)(vi)

- Claim 28 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. pat. no. 5,923,379 to Patterson (“Patterson”).
- Claims 1 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of U.S. pat. no. 5,781,228 to Sposato (“Sposato”) and U.S. pat. no. 5,892,536 to Logan et al. (“Logan”).
- Claims 2, 15, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 5,929,849 to Kikinis (“Kikinis”).
- Claims 7, 8, 13, 18, 19, and 31-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pub. no. 2001/0001160 to Shoff et al. (“Shoff”).
- Claims 10 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 5,130,800 to Johnson et al. (“Johnson”).
- Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 6,305,020 to Hoarty et al. (“Hoarty”).
- Claims 14 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 5,774,664 to Hidary et al. (“Hidary”).
- Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 5,848,352 to Dougherty (“Dougherty”).

- Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato, Logan, and Dougherty, and further in view of U.S. pat. no. 6,034,689 to White et al. (“White”).¹
- Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of U.S. pat. no. 5,745,109 to Nakano et al. (“Nakano”), White, and Hidary.
- Claims 27 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of Nakano and U.S. pat. no. 5,848,396 to Gerace (“Gerace”).²
- Claims 35 and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of Dougherty and U.S. pat. no. 6,240,555 to Shoff (“Shoff-‘555”).³
- Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Sposato and Logan, and further in view of Dougherty, Gerace, and Shoff-‘555.
- Claim 38 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Shoff-‘555.

1 The rejection of claim 26 in the Office Action at page 21 cites U.S. pat. no. 5,745,109 to Nakano et al. (“Nakano”). However, Nakano is not used in the rejection of claim 26, or claim 25 from which claim 26 depends.

2 The rejection of claim 27 is deficient. Claim 27 depends from claim 25. The section 103 rejection of claim 25 is based on Dougherty, yet the Office Action fails to include Dougherty in the rejection of claim 27.

3 The rejection of claims 35 and 36 is deficient. Claims 35 and 36 depend from claim 26. The section 103 rejection of claim 26 is based on White, yet the Office Action fails to include White in the rejection of claims 35 and 36.

ARGUMENT

37 C.F.R. § 41.37(c)(1)(vii)

A. Rejection of Claims 1, 2, 7, 8, 10, 11, 13-15, 31, and 32

1. Independent Claim 1

Claim 1 recites, among other features, “wherein said interactive portion is presented as an elongated horizontal portion encompassing less than half of a television screen at an edge of said television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the television screen.” The Office Action at page 6 concedes that Patterson fails to teach or suggest such features. The Office Action at page 7 appears to rely on the banner of Logan described at col. 8, lines 39-59 for such an alleged teaching. More specifically, the Office Action at page 7 concedes that Logan does not describe a banner being elongated in a horizontal position. However, the Office contends that “. . . a horizontal position is an obvious variation on how to display a banner, as most banners are elongated either vertically or horizontally. Further, it is typical to display a banner at an outer edge of a screen and banners (as a rule of thumb) typically occupy a smaller portion than the main display they are presented with. It would have been obvious to one of ordinary skill in the art . . . to present internet data in a banner, as taught by Logan, for the benefit of presenting Internet information concurrently with a broadcast, while not obstructing the broadcast picture.”

The Office’s rationale in modifying Logan (and Patterson and Sposato) to allegedly arrive at an interactive portion presented as an elongated horizontal portion encompassing less than half of a television screen at an edge of a television portion and not obscuring the television portion, wherein the television portion is arranged to encompass more than half of the television screen is unsupported. The Office bears the initial burden of factually supporting any *prima facie* conclusion of obviousness, and if the Office does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness. MPEP § 2142. Indeed, “[R]ejections on obviousness cannot be sustained by mere conclusory statements.” MPEP

§ 2141 (citing *KSR*⁴ (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) for such a proposition)).

In further alleged support of the rejection of claim 1, the Office Action at page 8 contends that “there . . . is one of only two options for keeping a banner on an edge of a display screen (i.e., a vertical edge or a horizontal edge.” This is a factually incorrect statement. Indeed, there are an infinite number of places to display a banner. The infinite number of places would be limited, at most, by a resolution associated with a display device, but even then the number of places would be relatively large.

Moreover, claim 1 recites “a remote control comprising a plurality of buttons arranged to move a cursor, the remote control further configured to receive user input and to provide the received user input to said controller.” As discussed at page 10 of the Amendment filed November 4, 2009 (the contents of which are incorporated herein by way of reference), Patterson describes a system specifically including a keyboard/mouse (user input device 42). See Patterson at Fig. 2. Because a keyboard is already provided, one of ordinary skill in the art would not have had an apparent reason to modify the Patterson system to remove user input device 42 and to instead use a remote control to obtain the interactive information as well as the broadcast information. Indeed, it is only on the basis of impermissible hindsight that the Office has modified the Patterson system to allegedly use a remote control.

For at least the foregoing reasons, claim 1 is allowable.

2. Dependent Claim 15

Claim 15 depends from claim 1 and is distinguishable from the applied documents for at least the same reasons as claim 1.

Claim 15 is further distinguishable from the applied documents in view of the features recited therein. Claim 15 recites “wherein *the controller is configured to determine* whether any web content is referenced in the television information and, in response to determining that web content is referenced in the television information, causing the interactive information interface to retrieve the web content referenced in the television information and causing such web content to be displayed in the interactive portion.” The Office Action at page 11 contends that Kikinis at

⁴ *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007).

col. 7, line 48-67 teaches such features. In Kikinis (at col. 7, lines 48-67), it is the viewer that determines whether to retrieve the alleged web content, not a controller as recited in claim 15. Accordingly, claim 15 is distinguishable from the applied documents for at least these additional reasons.

3. Dependent Claim 31

Claim 31 depends from claim 1 and is distinguishable from the applied documents for at least the same reasons as claim 1.

Claim 31 is further distinguishable from the applied documents in view of the features recited therein. Claim 31 recites “wherein the interactive controls are displayed responsive to preferences set by a user.” The Office Action at page 14 cites to Shoff at col. 9, lines 30-33 as allegedly describing such features. As a preliminary matter, Shoff is not organized as columns; rather, Shoff is organized as paragraphs.⁵ For purposes of this paper, Appellant presumes that the Office intended to cite paragraph [0062] of Shoff, where Shoff describes a viewer employing a remote control handset, mouse, keyboard, or other mechanism to actuate an icon 204 to enter into an interactive mode. Viewer actuation of an icon via a remote control handset, mouse, keyboard, or other mechanism to enter an interactive mode fails to teach or suggest displaying interactive controls responsive to preferences set by a user as recited in claim 31. Claim 31 is distinguishable from the applied documents for at least these additional reasons.

4. Dependent Claim 14

Claim 14 depends from claim 1 and is distinguishable from the applied documents for at least the same reasons as claim 1.

Claim 14 is further distinguishable from the applied documents in view of the features recited therein. Claim 14 recites “wherein the controller is configured to determine whether any television content is referenced in the interactive information and, in response to determining that television content is referenced in the interactive information, causing said television interface to tune to said referenced television content.” In rejecting claim 14, the Office Action at page 17 contends that Hidary shows such features. In particular, the Office Action at page 17 contends

⁵ Similar remarks apply with respect to the rejection of claim 32 at page 14 of the Office Action, where the Office cites to column and line numbers of Shoff.

that Hidary at col. 8, line 61 – col. 9, line 2 describes a television system with internet browsing capabilities in which hyperlinks on websites accessed on the television can automatically tune the television to an associated channel. As discussed at pages 10-11 of the Amendment filed November 4, 2009 (the contents of which are incorporated herein by way of reference), the cited portion of Hidary merely states that a user may choose to click on a hyperlink, which would then cause a TV window to be tuned to the selected broadcast. Thus, claim 14 is further distinguishable from the applied documents because claim 14 recites the controller is configured to determine whether any television content is referenced in the interactive information. In Hidary, that alleged determination is performed by a user.

5. Dependent Claims 2, 7, 8, 10, 11, 13, and 32

Claims 2, 7, 8, 10, 11, 13, and 32 depend from claim 1 and are distinguishable from the applied documents for at least the same reasons as claim 1, and further in view of the unique combinations of features recited therein.

B. Rejection of Claims 16, 18-21, 23, 24, 33, and 34

1. Independent Claim 16

Independent claim 16 recites, among other features, “wherein said interactive portion is presented as an elongated horizontal portion encompassing less than half of the display at an edge of the television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the display.” Such features are distinguishable from the applied documents for at least reasons substantially similar to those described above with respect to claim 1.

2. Dependent Claim 23

Claim 23 depends from claim 16 and is distinguishable from the applied documents for at least the same reasons as claim 16.

Claim 23 is further distinguishable from the applied documents in view of the features recited therein. Claim 23 recites “automatically determining whether any television content is referenced in the interactive information and, in response to automatically determining that television content is referenced in the interactive information, receiving television content

corresponding to the referenced television content and displaying the referenced television content on the display.” In rejecting claim 23, the Office Action at page 17 contends that Hidary shows such features. In particular, the Office Action at page 17 contends that Hidary at col. 8, line 61 – col. 9, line 2 describes a television system with internet browsing capabilities in which hyperlinks on websites accessed on the television can automatically tune the television to an associated channel. As discussed at pages 10-11 of the Amendment filed November 4, 2009 (the contents of which are incorporated herein by way of reference), the cited portion of Hidary merely states that a user may choose to click on a hyperlink, which would then cause a TV window to be tuned to the selected broadcast. Conversely, the features of claim 23 allow for an automatic determination of whether any television content is referenced in the interactive information and, in response to automatically determining that television content is referenced in the interactive information, receiving television content corresponding to the referenced television content and displaying the referenced television content on the display. As described in the filed specification starting at page 21 beginning at line 1, the above-noted features recited in claim 23 provide the author of a web page control over what a television is tuned to. Clearly, Hidary is incapable of providing such an automatic determination as recited in claim 23 when the user of Hidary must instead select a hyperlink. Claim 23 is distinguishable from the applied documents for at least these additional reasons.

3. Dependent Claims 18-21, 24, 33, and 34

Claims 18-21, 24, 33, and 34 depend from claim 16 and are distinguishable from the applied documents for at least the same reasons as claim 16, and further in view of the unique combinations of features recited therein.

C. Rejection of Claims 25-27 and 35-37

1. Independent Claim 25

Independent claim 25 recites, among other features, “a remote control input device comprising a plurality of buttons configured to receive user input and to provide the received user input to said controller.” As discussed above, Patterson describes a system specifically including a keyboard/mouse (user input device 42). See Patterson at Fig. 2. Because a keyboard

is already provided, one of ordinary skill in the art would not have had an apparent reason to modify the Patterson system to remove user input device 42 and to instead use a remote control to receive user input and to provide the received user input to a controller as recited in claim 25. Claim 25 is allowable for at least these reasons.

Moreover, in rejecting claim 25, the Office Action at page 20 provides discussion how it would have been obvious to provide an elongated, horizontally positioned banner in view of the alleged teachings of Logan. Claim 25 does not recite features related to an elongated, horizontally positioned banner. Appellant respectfully requests the Office to examine the claims (e.g., claim 25) in view of the actual features recited therein.

2. Dependent Claim 26

Claim 26 depends from claim 25 and is distinguishable from the applied documents for at least the same reasons as claim 25.

Claim 26 is further distinguishable from the applied documents in view of the features recited therein. Claim 26 recites “wherein the interactive information presented in the translucent overlay region comprises a plurality of interactive control buttons for selecting a service including electronic mail.” The Office Action at page 22 contends that Logan at col. 8, lines 53-59 describes such features. The cited passage of Logan is reproduced below:

55 suitable for display on the monitor. Optionally, these agents
can operate responsive to user-preferences to collect infor-
mation of interest to the individual viewers. Additionally, the
marking signal can instruct the processor to modify the
broadcast programming signal to include a banner, or a
window, that displays stock prices, sport scores, e-mail, or
other such information along with the broadcast signal.

This passage of Logan (or any passage, for that matter), fails to teach or suggest the above-noted features recited in claim 26. Providing a window that displays stock prices, sport scores, e-mail, or other information along with a broadcast signal does not teach or suggest a plurality of interactive control buttons, much less that the plurality of interactive control buttons are for selecting a service including electronic mail. Claim 26 is distinguishable from the applied documents for at least these additional reasons.

3. Dependent Claim 35 – Deficient Rejection

The rejection of claim 35 is deficient. Claim 35 depends from claim 26. The section 103 rejection of claim 26 is based on White, yet the Office Action fails to include White in the rejection of claim 35.

Claim 35 depends from claim 25 and is distinguishable from the applied documents for at least the same reasons as claim 25.

Claim 35 is further distinguishable from the applied documents in view of the features recited therein. Claim 35 recites “wherein the interactive control buttons are displayed responsive to preferences set by a user.” The Office Action at page 24 contends that Shoff-’555 at col. 9, lines 30-33 describes such features. This is incorrect. The cited passage of Shoff-’555 is provided below:

At this point, there are several ways to initiate viewing the supplemental content. One approach is to permit the viewer to selectively activate the interactive mode (i.e., the “viewer activate” branch from step 160). The viewer may know that the program is interactive compatible by checking a newspaper listing or other program guide. Another way is to have the viewer computing unit display an icon or other indicia on the screen to visually inform the viewer that the program is interactive compatible (step 162 in FIG. 6). The icon can be overlaid on the playing video program in a non-conspicuous manner, like the closed caption or stereo labels.

This passage of Shoff-’555 fails to teach or suggest displaying interactive control buttons responsive to preferences set by a user. Indeed, even assuming (without admitting) that the icon described in Shoff-’555 could have been analogized to the interactive control buttons of claim 35, Shoff-’555 fails to disclose that the icon is displaying responsive to preferences set by a user. Claim 35 is distinguishable from the applied documents for at least these additional reasons.

4. Dependent Claim 36 – Deficient Rejection

The rejection of claim 36 is deficient. Claim 36 depends from claim 26. The section 103 rejection of claim 26 is based on White, yet the Office Action fails to include White in the rejection of claim 36.

Claim 36 depends from claim 25 and is distinguishable from the applied documents for at least the same reasons as claim 25.

Claim 36 is further distinguishable from the applied documents in view of the features recited therein. Claim 36 recites “wherein the interactive control buttons are displayed responsive to an alert indicating an incoming message.” The Office Action at page 25 contends that Shoff-‘555 at col. 3, lines 21-23 describes such features because Shoff-‘555 allegedly describes a URL included in a broadcast signal. Shoff-‘555 at the cited passage does not describe a URL or a message, much less that a URL is included in a broadcast signal as contended.

In the event that the Office maintains a rejection of claim 36, clarification is respectfully requested in the next communication.

5. Dependent Claim 27 – Deficient Rejection

The rejection of claim 27 is deficient. Claim 27 depends from claim 25. The section 103 rejection of claim 25 is based on Dougherty, yet the Office Action fails to include Dougherty in the rejection of claim 27.

Claim 27 depends from claim 25 and is distinguishable from the applied documents for at least the same reasons as claim 25, and further in view of the unique combinations of features recited therein.

6. Dependent Claim 37

Claim 37 depends from claim 25 and is distinguishable from the applied documents for at least the same reasons as claim 25, and further in view of the unique combinations of features recited therein.

D. Rejection of Claims 28-30 and 38

1. Independent Claim 28

Independent claim 28 recites, among other features, “wherein said interactive information is presented in a translucent overlay region over the broadcast portion, wherein the translucent overlay region does not substantially obscure the broadcast region.” In rejecting claim 28, the Office Action at page 5 does not correctly cite the claim language identified above. Instead, the Office Action reduces the above-noted features of claim 28 to “wherein said interactive information is presented at an edge of the broadcast portion and does not obscure said broadcast portion.” This construction excludes, for example, that the interactive information is presented in a translucent overlay region. Patterson fails to disclose interactive information presented in a translucent overlay region over a broadcast portion, much less that the translucent overlay region does not substantially obscure the broadcast region as recited in claim 28. Patterson fails to anticipate claim 28 for at least these reasons.

2. Dependent Claim 29

Claim 29 depends from claim 28 and is distinguishable from the applied documents for at least the same reasons as claim 28, as Sposato, Logan, Nakano, White, and Hidary fail to remedy the deficiencies of Patterson described above with respect to claim 28 (notwithstanding whether the combination of documents would have been proper).

Claim 29 is further distinguishable from the applied documents in view of the features recited therein. Claim 29 recites “wherein the interactive information presented in the translucent overlay region comprises a plurality of web graphics including television signals.” The Office Action at page 22 contends that Hidary at col. 8, line 61 – col. 9, line 2 describes a television system with internet browsing capabilities in which hyperlinks on websites accessing on the television can include a hyperlink to a television channel. Even assuming (without admitting) that Hidary describes what the Office Action suggests, that description does not fairly teach or suggest interactive information that is presented in a translucent overlay region comprises a plurality of web graphics including television signals as is actually recited in claim 29. Claim 29 is distinguishable from the applied documents for at least these additional reasons.

3. Dependent Claim 38

Claim 38 depends from claim 28 and is distinguishable from the applied documents for at least the same reasons as claim 28.

Claim 38 is further distinguishable from the applied documents in view of the features recited therein. Claim 38 recites “displaying a plurality of interactive control buttons at least one of which is displayed responsive to an alert indicating an incoming message.” Such features are distinguishable from the applied documents (e.g., Shoff-’555) for at least reasons substantially similar to those discussed above with respect to claim 36.

4. Dependent Claim 30

Claim 30 depends from claim 28 and is distinguishable from the applied documents for at least the same reasons as claim 28, and further in view of the unique combinations of features recited therein.

CONCLUSION

For all of the foregoing reasons, Appellant respectfully submits that the standing rejections of the appealed claims are improper and should be reversed.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: August 10, 2010

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CLAIMS APPENDIX
37 C.F.R. § 41.37(c)(1)(viii)

Claims involved in the appeal:

1. An information system, comprising:
 - a controller configured to generate an image representative signal adapted for use by a display device;
 - a television interface configured to provide television information received from a television signal to the controller;
 - an interactive information interface configured to retrieve interactive information from the web and to provide the interactive information to said controller;
 - a remote control comprising a plurality of buttons arranged to move a cursor, the remote control further configured to receive user input and to provide the received user input to said controller; and
 - a data memory configured to store user preferences;

wherein said controller is configured to obtain said interactive information in response to said user input received from the remote control and television information in response to said user input, said controller being further configured to generate said image representative signal such that corresponding presented imagery includes an interactive portion containing said interactive information and a television portion containing said television information, wherein said interactive and said television portions are formatted according to said user preferences, and

wherein said interactive portion is presented as an elongated horizontal portion encompassing less than half of a television screen at an edge of said television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the television screen.
2. The information system of claim 1, wherein:

said television signal comprises a hyperlink and the controller is configured to cause interactive content corresponding to the hyperlink to be retrieved through the interactive information interface and displayed in the interactive portion.

3-6. (Canceled)

7. The information system of claim 1, wherein:

said interactive portion of said imagery comprises a plurality of interactive controls displayed in a first image panel; and

said television portion of said imagery comprises broadcast video imagery displayed in a second image panel.

8. The information system of claim 1, wherein:

said interactive portion comprises a plurality of discrete web objects including links to other web objects.

9. (Canceled)

10. The information system of claim 1, wherein said controller is configured to resize the television information to fit within the television portion.

11. The information system of claim 1, wherein:

at least one of said user preferences stored in said data memory comprises a home web page that is retrieved and displayed in said interactive portion upon initialization of the information system.

12. (Cancelled)

13. The information system of claim 1, wherein:

said elongated horizontal portion comprises a menu bar comprising a plurality of interactive control buttons.

14. The information system of claim 1, wherein the controller is configured to determine whether any television content is referenced in the interactive information and, in response to determining that television content is referenced in the interactive information, causing said television interface to tune to said referenced television content.

15. The information system of claim 1, wherein the controller is configured to determine whether any web content is referenced in the television information and, in response to determining that web content is referenced in the television information, causing the interactive information interface to retrieve the web content referenced in the television information and causing such web content to be displayed in the interactive portion.

16. A method comprising:
initializing a display system;
receiving selected web content received in response to user input from a remote control device;
receiving television content;
receiving user preferences;
formatting the received web content and the received television content into video information according to said user preferences; and
transmitting to a display the video information to simultaneously produce interactive information including the received selected web content in an interactive portion of the display and television content in a television portion of the display,
wherein said interactive portion is presented as an elongated horizontal portion encompassing less than half of the display at an edge of the television portion and does not obscure said television portion, and wherein said television portion is arranged to encompass more than half of the display.

17. (Cancelled)
18. A method according to claim 16, wherein the elongated horizontal portion comprises a menu bar comprising a plurality of interactive control buttons.
19. A method according to claim 16, wherein the interactive portion comprises a plurality of discrete web objects including links to other web objects.
20. A method according to claim 16, further comprising providing a home web page in the interactive portion after initialization of the display system.
21. The method according to claim 16, further comprising resizing the received television content to fit within the television portion of the display.
22. (Canceled)
23. A method according to claim 16, further comprising automatically determining whether any television content is referenced in the interactive information and, in response to automatically determining that television content is referenced in the interactive information, receiving television content corresponding to the referenced television content and displaying the referenced television content on the display.
24. A method according to claim 16, further comprising determining whether any web content is referenced in the television content and, in response to determining that web content is referenced in the television content, retrieving such web content from the web and causing it to be displayed on the display.
25. An information system, comprising:

a controller configured to generate an image representative signal adapted for use by a display device;

a television interface configured to provide television information received from a television signal to the controller;

an interactive information interface configured to retrieve interactive information from the web and to provide the interactive information to said controller;

a remote control input device comprising a plurality of buttons configured to receive user input and to provide the received user input to said controller; and

a data memory configured to store user preferences;

wherein said controller is configured to obtain said interactive information in response to said user input received from the remote control input device and television information in response to said user input, said controller being further configured to generate said image representative signal such that corresponding presented imagery includes an interactive portion containing said interactive information and a television portion containing said television information, wherein said interactive and said television portions are formatted according to said user preferences, and

wherein said interactive information is presented in a translucent overlay region over the television portion, wherein the translucent overlay region does not substantially obscure the television portion .

26. The information system of claim 25, wherein the interactive information presented in the translucent overlay region comprises a plurality of interactive control buttons for selecting a service including electronic mail.

27. The information system of claim 25, wherein the interactive information presented in the translucent overlay region comprises an animated ticker.

28. A method comprising:
initializing a display system;

receiving selected web content;

receiving broadcast content;

receiving user preferences;

formatting the received web content and the received broadcast content into video information according to said user preferences; and

transmitting to a display the video information to simultaneously produce interactive information including portions of the received selected web content in an interactive portion of the display and a television broadcast in a broadcast portion of the display,

wherein said interactive information is presented in a translucent overlay region over the broadcast portion, wherein the translucent overlay region does not substantially obscure the broadcast region.

29. The method of claim 28, wherein the interactive information presented in the translucent overlay region comprises a plurality of web graphics including television signals.

30. The method of claim 28, wherein the interactive information presented in the translucent overlay region comprises an animated ticker.

31. The information system of claim 7, wherein the interactive controls are displayed responsive to preferences set by a user.

32. The information system of claim 7, wherein the interactive controls are displayed responsive to an alert indicating an incoming message.

33. The method of claim 18, wherein the interactive control buttons are displayed responsive to preferences set by a user.

34. The method of claim 18, wherein the interactive control buttons are displayed responsive to an alert indicating an incoming message.

35. The information system of claim 26, wherein the interactive control buttons are displayed responsive to preferences set by a user.
36. The information system of claim 26, wherein the interactive control buttons are displayed responsive to an alert indicating an incoming message.
37. The information system of claim 25, wherein the translucent overlay region comprises a first translucent region comprising an animated ticker presented near a top edge of the display device and a second translucent region comprising a plurality of selectable buttons presented along a horizontal edge of the display device.
38. the method of claim 28, further comprising displaying a plurality of interactive control buttons at least one of which is displayed responsive to an alert indicating an incoming message.

EVIDENCE APPENDIX
37 C.F.R. § 41.37(c)(1)(ix)

NONE.

RELATED PROCEEDINGS APPENDIX

37 C.F.R. § 41.37(e)(1)(x)

NONE.